



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35801]

Spencer N. Wendelin—Continuance in Control—RMW Ventures, LLC, Big Four Terminal Railroad, LLC, and Wabash Central Railway, LLC

Spencer N. Wendelin (Applicant), a noncarrier individual, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of RMW Ventures, LLC (RMW) and Big Four Terminal Railroad, LLC (BFTR), a Class III rail carrier.

Applicant states that he owns and controls both RMW and BFTR. Applicant also states that he owns and controls Wabash Central Railway, LLC (WCR), a Class III rail carrier. In 2010, BFTR filed a verified notice of exemption under 49 CFR 1150.31 to operate 5.2+/- miles of rail line owned by RMW located between milepost 0.0 in Connorsville, Ind., and milepost 5.2+/- in Beesons, Ind., in Fayette and Wayne Counties, Ind. Big Four Terminal R.R.—Operation Exemption—RMW Ventures, FD 35454 (STB served Dec. 30, 2010). According to Applicant, BFTR was incorporated to operate this 5.2-mile line of railroad in 2010, at which time Applicant also owned and controlled RMW. Applicant states that, during the incorporation of BFTR, he inadvertently did not seek continuance in control authority involving BFTR. Applicant filed the verified notice of exemption with the Board to correct that oversight on February 12, 2014. Applicant

amended the notice on March 5, 2014.<sup>1</sup> Thus, the effective date of the exemption is April 4, 2014 (30 days after the verified notice of exemption was filed).

This transaction is related to a concurrently filed verified notice of exemption in RMW Ventures, LLC—Corporate Family Transaction—Big Four Terminal Railroad, LLC, Docket No. FD 35798, wherein RMW seeks Board approval to acquire the stock of BFTR and WCR.

Applicant represents that: (1) the rail lines of RMW, BFTR, and WCR do not connect with each other or any railroads in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroads in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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<sup>1</sup> Accordingly, March 5, 2014, is the official filing date. While the verified notice indicates that Applicant is seeking an exemption to authorize the continuance in control “nunc pro tunc” (retroactively), the authority will be effective prospectively from April 4, 2014. The class exemption invoked by Applicant does not provide for retroactive effectiveness.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than March 28, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35801, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Richard R. Wilson, 518 N. Center Street, Ste. 1, Ebensburg, PA 15931.

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Decided: March 17, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

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